



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/528,254	03/17/2000	Glen John Anderson	1206	4416

24333 7590 05/10/2004

GATEWAY, INC.
ATTN: SCOTT CHARLES RICHARDSON
610 GATEWAY DRIVE
MAIL DROP Y-04
N. SIOUX CITY, SD 57049

EXAMINER

SAX, STEVEN PAUL

ART UNIT	PAPER NUMBER
----------	--------------

2174

DATE MAILED: 05/10/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/528,254

Applicant(s)

ANDERSON ET AL.

Examiner

Steven P Sax

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-11 and 19-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-11 and 19-47 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

1. This application has been examined.
2. The RCE and amendment filed 4/14/04 has been entered.
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1-7, 9-11, 19-47 are rejected under 35 U.S.C. 102(e) as being anticipated by Petrushin (6275806).
5. Regarding claim 1, Petrushin shows the information system under affective control (column 1 lines 40-50) comprising: an application program with which a user is actively engaged (column 3 lines 45-68), means for determining apparent affective state of the user (column 10 lines 5-11, column 11 lines 35-46, Figure 2, column 13 lines 23-

Art Unit: 2174

41), means for changing the operation of the application program responsive to the apparent affective state of the user (column 47 lines 50-62, column 43 lines 15-40).

6. Regarding claim 2, the claim is written in the alternative and thus only one of autonomic indicator or facial expression need be shown. Petrushin shows the autonomic indicator of the voice vocal energy (column 12 lines 40-50).

7. Regarding claim 3, the application is voice user input (column 1 lines 40-55).

8. Regarding claim 4, atleast one of the input characteristics (vocal temporal features for example) are used with which the system responds. (column 12 lines 40-50).

9. Regarding claim 5, the vocal input is text (column 10 lines 25-35).

10. Regarding claim 6, text is marked based on the affective state (column 46 lines 39-55, note the display of information. The user password is displayed user text column 47 lines 3-22)

11. Regarding claim 7, the text is composed by the user and transmitted (column 48 lines 15-28).

Art Unit: 2174

12. Claims 9-11 show the same features as above and are rejected for the same reasons.

13. Claims 19-20 show the same features as above and are rejected for the same reasons.

14. Regarding claims 21-23, word incidence and frequency are used (column 52 lines 1-25)

15. Regarding claims 24-29 and 31, these show the same features as above as well as to compose a document. Note that this is shown as well (column 51 lines 15-32).

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 30, 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pertrushin (6275806) and Shashoian et al (6717573).

19. Regarding claims 30, 32-34, Pertrushin shows the user exerted force, but does not show it as the user inputs text. Shashoian et al however do this for added user flexibility in interfacing with the system (column 7 lines 15-50). It would have been

Art Unit: 2174

obvious to a person with ordinary skill in the art to do this in Pertrushin, because it would add flexibility in interfacing with the system.

20. Claims 35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pertrushin (6275806) and (Fasciano).

21. Regarding claims 35-40, in addition to the aforementioned, the specific speech analysis qualities are not mentioned per se in Pertrushin, but Pertrushin does mention flexibility in analyzing user outputs. Fasciano analyses the specific speech analysis qualities for flexibility in analyzing user outputs. IT would have been obvious to a person with ordinary skill in the art to so this in Perturshin, to give flexibility in analyzing user output.

22. Claims 41-47 show the same features as claims 1-7 and are rejected for the same reasons.

23. Applicant's arguments filed have been fully considered but they are not persuasive. The claims are broadly stated, and note that Pertrushin does in fact show changing the application operation in some fashion based on the apparent affective state of the user. That is to say, the detected apparent state does cause some operative change in the application. As to the variation of user's speech, it is subjective as to what determines an emotional state. The change in voice is in fact one way of

determining this, and thus fulfils the claim as recited. The text is monitored in Pertrushin. The additional claims bring out the same features as mentioned. Pertrushin does use a keyboard and mouse as input devices, the force on which is measured and responded thereto.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven P Sax whose telephone number is 703-305-9582. The examiner can normally be reached on M-F 8:30AM - 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine Kincaid can be reached on 703-308-0640. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

STEVEN SAX
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to be 'SAX', written over the printed name and title.